

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

N.V.E., INC.

Plaintiff,

v.

JESUS J. PALMERONI, et al.,

Defendants.

Civil Action No. 06-5455

ORDER

THIS MATTER comes before the Court on Plaintiff N.V.E., Inc.'s ("Plaintiff") Motion to Vacate the Court's September 21, 2011 Order, ECF No. 731, Plaintiff's Motions in limine, ECF No. 732, and Defendant Jesus J. Palmeroni's ("Palmeroni") Motion to Dismiss and Motions in limine, ECF No. 741;

and for the reasons stated on the record on January 23, 2020;

IT IS on this 27th day of January, 2020;

ORDERED that decision on Plaintiff's Motion to Vacate the portion of the September 21, 2011 Order, ECF Nos. 231-232, regarding an adverse inference instruction, ECF No. 731, is **RESERVED** until the close of the presentation of evidence at trial; and it is further

ORDERED that Plaintiff's Motion in limine to exclude prior convictions of Occhifinto, Prindle, Palmeroni, and Defendant Vincent Rosarbo ("Rosarbo"), ECF No. 732, is **GRANTED**; and it is further

ORDERED that Plaintiff's Motion in limine to exclude evidence of: (1) the fact that Occhifinto had a child with an N.V.E. employee, (2) Occhifinto's wealth, (3) Defendants' lack of wealth, (4) the fact that N.V.E. hired undocumented workers, (5) N.V.E.'s trademark infringement litigation in Michigan in 2016, (6) the fact that Rosarbo has cared for his disabled relatives, (7) the

fact that N.V.E. applied for permits from the Drug Enforcement Agency (“DEA”), and (8) affirmative evidence of Occhifinto’s business relationship with Jared Wheat, ECF No. 732, is **GRANTED**; and it is further

ORDERED that Palmeroni’s Motion to Dismiss, ECF No. 741 is **DENIED**; and it is further

ORDERED that Palmeroni’s Motion in limine to exclude the expert report and testimony of Darryl Neier, ECF No. 741.2, is **DENIED** and Mr. Neier may present evidence regarding Plaintiff’s disgorgement/unjust enrichment theory of damages at trial.

/s/ Madeline Cox Arleo
HON. MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE